IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY PETITION No. 26 of 2003

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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CROMPTON GREAVES LTD. - Petitioner(s)

Versus

SWADIA BROTHERS ENGG. PVT.LTD. - Respondent(s)

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Appearance :

MR MANISH R BHATT for Petitioner(s) : 1,
MR YN RAVANI for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 24/11/2005

ORAL JUDGMENT

1.Mr. M.R. Bhatt, learned counsel for the petitioner. Mr. R.M.Meena, learned counsel under the authority of Mr. Y.N.Ravani for the respondent company. Present petition has been filed under Sections 433 and 434 of the Companies Act, 1956, for winding up of the company on

the grounds, inter alia that, the company has lost its substratum, it is not paying the dues and is not viable. It is submitted by the petitioner that it has to recover a sum of Rs. 1,91,627.84 ps. along with 18% interest from the respondent company and making a demand, statutory notice was issued by it, but despite service of the notice, the company did not respond nor paid the amount.

2. It would appear that in the present matter, notices were issued to the respondent company and it engaged Mr. Y.N.Ravani to represent its case, but it did not file its reply nor opposed the petition. The petition, after its admission was also not contested, therefore, on 3.12.2003, this Court ordered that public advertisement of admission of the petition and intimation about the date of final hearing be published in English daily Indian Express, Ahmedabad edition and Gujarati daily, Divya Bhaskar, Ahmedabad edition. The advertisement has already been published on 31st December, 2003. Despite the advertisement, the respondent company has not filed its reply nor is contesting the company petition.

3. Taking into consideration the nature of the allegations made against the company that it is indebted to the

petitioner, despite service of the statutory notice, it has not responded, despite service of the show cause notice, it did not choose to contest the matter and even after the public advertisement, it has not filed its reply, I have reason to believe that the company has lost its substratum and has become unviable. The petition is accordingly allowed. The company is directed to be wound up. The Official Liquidator, associated with the High Court is appointed as Official Liquidator for taking possession of the property and making necessary inventories. He may proceed with the properties of the company after seeking proper information from the ex-management and the office of the Registrar of Companies. The petition is allowed.

[R.S. GARG, J.]

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